

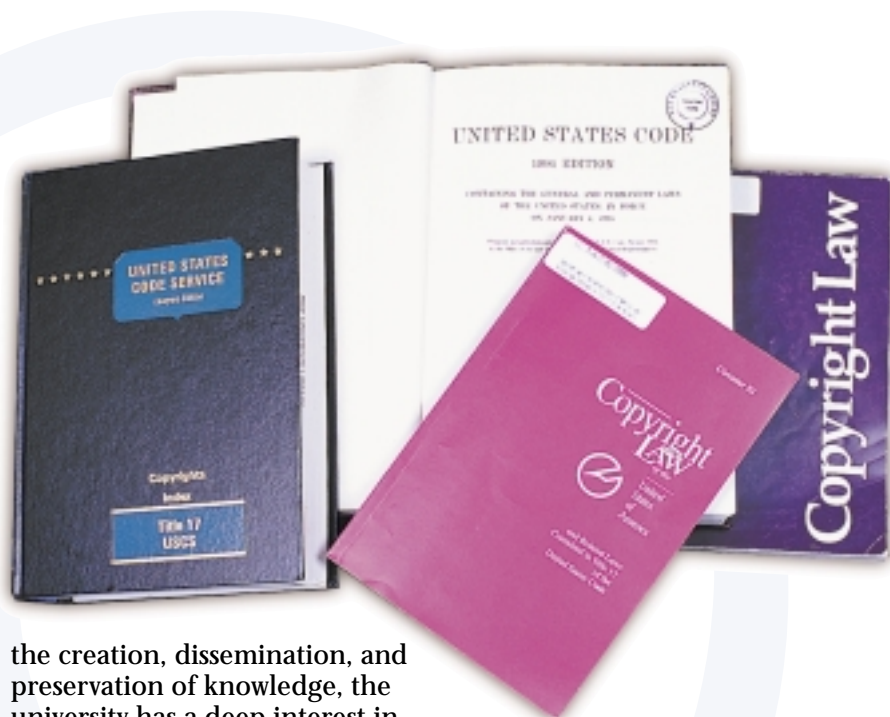
# NEWS *from* FONDREN

A LIBRARY NEWSLETTER TO THE RICE UNIVERSITY COMMUNITY

## THE CHANGING NATURE OF COPYRIGHT IN THE ACADEMIC CONTEXT

Who is an author? How long does copyright last? How much of someone else's work can I use without getting permission? How do I protect my sighting of Elvis?<sup>1</sup> These are among the many frequently asked questions that the U.S. Copyright Office fields. Although Rice faculty, students, and staff may not have Elvis sightings to protect, they often confront similar questions in determining what copyright law permits.

Copyright law may seem invisible in the day-to-day operations of the university, but it is fundamental to the work that academics and libraries do. The issue of copyright presents itself daily on the Rice campus, whether a librarian is reproducing documents for interlibrary loan or a faculty member is creating a course packet for a class. As an institution focused around



the creation, dissemination, and preservation of knowledge, the university has a deep interest in laws governing the ownership of and access to information. Because of the complexity of copyright law, faculty and staff often have difficulty discerning what is legal. Thus, they may be reluctant to employ potentially useful resources in research or teaching, or they may unknowingly commit violations.

Rapid transformations in electronic media have made it even more difficult to determine how to approach copyright. Whereas copyright in the analog era meant laboring over a copy machine or

tape recorder to produce an inferior reproduction, digital technologies quickly produce exact copies that can be easily altered or redistributed around the world. This ease of copying has prompted publishers to devise means of protecting their intellectual property, such as licenses with stringent terms of use or technologies that restrict access.

Current copyright law depends upon a balance between interests of the producers and users of information. To provide an incentive

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<sup>1</sup> Library of Congress. Copyright Office, "Questions Frequently Asked in the Copyright Office Public Information Section." <<http://www.loc.gov/copyright/faq.html>>

for the production of new works, the law gives the creators exclusive rights over them, but, to promote access to creative works and the consequent growth of knowledge and creativity, the law also establishes limitations and exceptions to proprietary rights. With the adoption of new laws that seem to favor the software and publishing industries, academics worry that the balance is tilting



*Interlibrary Loan Librarian Lee Hilyer checks copyright requirements.*

toward commercial interests, overriding fair use and threatening to make access to information difficult or prohibitively expensive.

Henry Gladney explains the essential problem:

Thus the digital dilemma is that the same technology that is making more current information available more quickly and completely also has the potential to demolish a careful balancing of public good and private interest that has emerged from the evolution of IP law started by the U.S. Constitution. The public good is the broad availability of information anchored by the constitutional mandate to promote the 'progress of science and the useful arts'; the private interest is the time-limited monopoly given to a contributor to that progress. The challenge is

to strike and maintain a balance, offering enough to motivate authors, inventors, and publishers, but not so much as to threaten important public policy goals, such as promotion of education and scholarship.<sup>2</sup>

#### COPYRIGHT FUNDAMENTALS

U.S. copyright law is based on the Constitution, which grants Congress the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries" (Article 1, section 8). Federal law has specified that the "exclusive rights" of copyright owners include the rights to reproduce copies, prepare derivative works based upon

the original, and distribute copies through selling, leasing, renting, or lending them (Section 106 of the 1976 Copyright Act). Copyright holders are also granted the rights to publicly perform and display literary, musical, and dramatic works. It should be noted that copyright protects only the expression of ideas, not the ideas themselves. For instance, one cannot copyright the idea of Elvis, but Elvis Presley Enterprises, Inc., certainly has claimed the

rights to his likeness, image, and name.

To balance these exclusive rights and to promote "progress," Congress established certain limitations to allow for "fair use" of the material (Section 107 of the 1976 Copyright Act). Courts have also found that First Amendment freedoms depend upon the ability of commentators and critics to quote from works under review. Users of copyrighted material thus have limited "rights" to use and reproduce the material for the purposes of research, scholarship, criticism, news reporting, teaching, or commentary.

In determining whether a use is "fair," the following factors should be weighed:

- the purpose and character of the use, including whether such use

<sup>2</sup> Henry M. Gladney, "Digital Dilemma: Intellectual Property," *D-Lib Magazine* 5, no. 12 (December 1999). <<http://www.dlib.org/dlib/december99/12gladney.html>>

- is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
  - the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  - the effect of the use upon the potential market for or value of the copyrighted work.”<sup>3</sup>

A 1976 House Report clarifies copyright law with three additional fair use tests: brevity (for instance, no more than twenty-five hundred words or 10 percent of an article or story), spontaneity (whether the material was needed for immediate classroom purposes), and cumulative effect (is there systematic use of these materials across the educational institution?).

With digital resources, users should consider whether measures are in place to ensure that materials are conveyed only to the appropriate audience (for instance, by requiring students to use a password to gain access to the material or blocking non-Rice computers) and are used only for a limited amount of time, such as a semester. Users who wish to use or reproduce the material in a manner not covered by fair use are generally required to seek permission from the copyright holder or to pay royalties to the copyright owner, usually through an entity such as the Copyright Clearance Center.

In giving copyright protection to creative works, citizens in return get assurances that these works will, after a reasonable period of time, enter the public domain and

<sup>3</sup> United States Code, Title 17, section 107. See also the Indiana University Copyright Management Center’s “Checklist for Fair Use.” <<http://www.iupui.edu/~copyinfo/fucheckintro.html>>

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## NEW LIBRARY DIRECTOR APPOINTED



*Sara Lowman*

*Photo by Jeff Fitlow*

The promotion of Sara Lowman to the position of Director of Fondren Library and Associate University Librarian was announced at the beginning of February 2001. Ms. Lowman’s previous title was Associate University Librarian. All administrative units in the library will now report to Ms. Lowman, who will be responsible for

the day-to-day operations of the library. She will also have an active role in the planning of the library renovation and expansion and will handle long-term planning and strategic development for the library.

This change in duties was occasioned by the promotion of Dr. Charles Henry, formerly Vice Provost and University Librarian, to the position of Vice President and Chief Information Officer. Besides his new role in information technology, Dr. Henry will continue to oversee the library, focusing on fundraising and planning for the new building. Dr. Henry will also be involved with the development of the International University Bremen.



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## RARE PHOTOGRAPHIC ALBUM SHOWCASES EGYPTIAN ANTIQUITIES

Among the hidden treasures of the Brown Fine Arts Library is the *Album du Musée de Boulaq* (Art Rare Oversize DT59.C3 M32), published in Cairo in 1872. Fondren Library is fortunate to possess one of the few existing photographic albums of the original Boulaq Museum collection: there are only fifteen copies catalogued by OCLC (the Online Computer Library Center). The folio-sized *Album* contains forty large photographic plates of objects displayed in Egypt's first antiquities museum

at Boulaq, just north of modern-day downtown Cairo. In addition to its importance for the study of the objects, the *Album* can tell us much about both photography and the discipline of Egyptology in the nineteenth century.

### PRODUCTION OF ALBUM

The *Album* was the brainchild of Hippolyte Délié and Émile Béchard, Frenchmen who were active in Cairo between 1869 and 1890. Students of the history of photography are no doubt familiar with the importance of ancient



*Associate Professor of History Paula Sanders and Art and Architecture Librarian Jet Prendeville examine Album du Musée de Boulaq.*

Egyptian subjects for nineteenth-century photographers, who came to Egypt to record her monumental antiquities. Délié and Béchard approached the Director of the Antiquities Museum, Auguste Mariette Pasha, with the idea. Mariette Pasha not only granted them permission but also chose the objects, arranged them, and wrote the accompanying text.

The forty photographs were produced using dry collodion negatives. The technique involved coating a glass plate with a light-sensitive emulsion of collodion and silver salts and then exposing

it to light. Because the technique produced photographs of exceptional sharpness and detail, it was ideal not only for archaeological photography, but also for photographing smaller objects for study. The *Album*, a magnificent example of collodion negative photography, was considered to be one of the most beautiful books of its time.

### MARIETTE AND THE BOULAQ MUSEUM

Mariette, the author of the text, is a towering figure in the history of Egyptology. He had

come to Egypt in 1850 to buy Coptic, Syriac, and Ethiopic manuscripts for the Louvre. When the Coptic authorities refused to sell him the desired items, he used his budget instead to begin excavations at Saqqara (the step pyramid), where he discovered the Apis bull Serapeum, one of the most important Egyptological finds of all time. The excavations established his reputation as the premier Egyptologist of his day. In 1858 the Khedive Said (the same ruler who was instrumental in building the Suez Canal) appointed Mariette as the first

director of Egypt's new Antiquities Service. Knowing that antiquities dealers and European museums would oppose the founding of a museum, which they believed would stifle the lucrative open market in Egyptian antiquities, Mariette did not immediately establish one.

The first museum, when begun, was a far cry from the imposing neo-classical building on the edge of downtown Cairo that is now home to the world's most impressive collection of ancient Egyptian artifacts. Mariette, who had exclusive rights to excavation in Egypt, got permission to use the buildings of an old river transport company at Boulaq (which is on the Nile and was Cairo's port from the later Middle Ages on) to store his finds. He also displayed some of the most beautiful objects. The small exhibition became enormously popular, and in 1863 the



*Mariette, founder of the Boulaq Museum, is pictured on a commemorative bronze medallion. The building shown is the museum.*

new Khedive, Ismail, established the museum in a new, larger building with a garden, overlooking the Nile. This is the Boulaq Museum that is pictured in the first of the photographic plates of the *Album*, and it is one of the only photo-



*Plate 18 of the Album. A wooden statue found at Saqqara in the tomb of the person represented, who lived in Memphis during the first half of the Fourth Dynasty.*

graphs we have of the exterior of the building. By 1871, when these photographs were made available, the Boulaq Museum was a must-see for the tourists who were flocking to Egypt, thanks in part to the tours begun by Thomas Cook in 1868.

#### EGYPTOLOGY A EUROPEAN PURSUIT

The *Album* itself, the history of the Boulaq Museum, and Mariette's career serve to remind us that Egyptology was an exclusively European concern throughout the entire nineteenth century. Europeans, and particularly the French, dominated the study of ancient Egypt, as they dominated all of the institutions within Egypt that were dedicated to Egyptology. The study of ancient Egypt was considered to be a European entitlement, since the Europeans

considered ancient Egypt to be a pre-Greek ancestor of Western civilization. Ancient Egypt, in the minds of these men, had nothing to do with the modern Egyptians, who were considered to be inferior "Orientals." Modern Egyptians were deemed to be unsuitable as anything other than menial workers on excavations. They were, in fact, systematically excluded by Europeans and Americans from the discipline of Egyptology until the middle of the twentieth century.

This unsavory aspect of the history of Egyptology is evident also in the *Album*. The text of the *Album*, the Boulaq Museum catalog, and even the labels in the museum were all in French. By the 1880s, English translations would be available also. But no versions in Arabic existed. Few Egyptians visited the museum, and little was done to make its contents accessible to the local Arabic-speaking population. An English-speaking Egyptian



*Plate 10 of the Album. This grouping of three statues was found at Saqqara beside the mummy of the functionary Psametik. On the left is Osiris, and on the right is Isis. In the center Psametik, accompanied by the divine cow, Hathor, is depicted as he begins his journey into the other world immediately after his death.*

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complained in a letter to the Egyptian Gazette (Jan. 27, 1885), that “the Museum staff is paid for in the interest of Europeans and not of native Egyptians ...” When Mariette wrote in his preface that the “remarkable execution of the plates allows us to recommend to the whole world the Album of Messrs. Délié and Bécharde,” the world he meant was Europe.

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*Plate 26 of the Album. This statue, depicting Chephren (builder of the second pyramid at Giza), was found in the temple of the great Sphinx.*

## FONDREN LIBRARY PRE-DESIGN STUDY NEARS COMPLETION

Planning for Rice’s most ambitious construction project to date—the expansion and renovation of Fondren Library—has been highly exciting and challenging work. Last September the Rice University Board of Trustees selected a new design architect to provide a revised Pre-Design Planning Study. London architect Michael Wilford was chosen to complete this study, in association with the Boston architects, Shepley Bulfinch Richardson and Abbott.

During the last four months, the design and planning architects have developed conceptual diagrams and massing models to explore the accommodation of the programmatic goals for the library and the appropriate fit of the new facility within the scale of the core campus. A reassessment of the master plan goals and the logistics and programmatic impacts of both a temporary library facility and a remote book storage facility has also been undertaken.

Alternative strategies and their respective construction cost estimates have been reviewed with the Design Subcommittee of the Buildings and Grounds Committee during a series of meetings that concluded in January. The committee members evaluated the planning options that were presented and assisted in formulating conclusions and directions for the team to pursue.

The Pre-Design Study, which will define a project scope and budget, is presently scheduled for submission at the March 2001 board meeting. The goal is to secure approval for the design team to proceed with the development of the schematic design phase. Specifics of the plan selected will be made available as soon as the project has approval to move forward.

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# ILLUMINATED MANUSCRIPTS ENHANCE COLLECTION

The beauty and artistry of illuminated manuscripts appeal to everyone. They are popular with the general public for their elaborate decorations and important to scholars for their research value. Strictly speaking, illuminated manuscripts contain decoration with metallic gold or silver.

The decoration can be in the form of ornately detailed pictures or in the large lettering, called initials, that begins sentences or paragraphs. The term is often loosely applied to include most European medieval books, or codices.

Illuminated manuscripts are typically written on vellum, a durable skin of sheep, calf, or goat that began to replace papyrus scrolls around the fourth century. These manuscripts vary greatly over time and place in the amount of detail in the script and ornamentation. Natural quills were generally used for writing texts, and inks were available in a variety of colors. Embellishments, such as gold leaf and gold ink, were also employed to decorate and highlight the pages. Religious texts are a dominant theme, and a large number of these manuscripts were produced by monks. Often, different monks were responsible for copying the text and completing the illumination. Due to the painstaking detail, the scarcity of vellum, and the worth of the gold, these codices were largely produced for the wealthy or for the



*Unidentified illustration from the Morgan Crusader Bible. Used with permission of Faksimile Verlag Luzern.*



*Miniatures from Les Petites heures du duc de Berry, folio 140v/141r. Used with permission of Faksimile Verlag Luzern.*

church. The invention of printing and the replacement of vellum by paper caused manuscript production to decline around the fifteenth century.

## RECENT FONDREN ACQUISITIONS

Three facsimiles of illuminated manuscripts were recently purchased for the Brown Fine Arts Library. *The Morgan Crusader Bible* (Art Rare Oversize ND3355.5 .P54 K74) chronicles the Old Testament and is noted for its pictorial descriptions, originally without any text. Later, Latin text was added in

the margins to detail the actions in the various scenes. *Les Petites heures du duc de Berry* (Art Rare Oversize ND3363 .B5 C4) is notable for the five important illuminators who worked to produce the rich decorations. The *Buchaltärchen*, or “Book-Altar,” (Art Rare Oversize ND3380.4 .L58 B83) belonging to Philip the Good, Duke of

Burgundy, is unique because it combines the manuscript with a small altarpiece, allowing the Duke to conveniently carry a devotional object with him. Published by Faksimile Verlag Luzern, these particular facsimiles are meticulously detailed to accurately reproduce the texture of the page, the intricate gilding, and even the modern-day condition of the codex.

The Brown Library houses over seven hundred titles pertaining to illuminated manuscripts. The collection focuses mainly on Greco-Roman and Western European texts from late antiquity to the Renaissance, but it also includes Islamic texts and texts from Persia, Turkey, and India. The majority of these works concentrate on the medieval period and support the university’s curriculum in subjects such as art history, music, history, and classics. The new facsimiles are particularly important for students because they faithfully reproduce the entire text, including the binding and the original sizes of the texts. Accurate reproductions such as these establish



*Folio 13v of the Buchaltärchen. A hexagonal aedicula shows the Virgin Mary as Madonna of the Ears of Wheat, with Duke Philip of Burgundy kneeling at his prayer-desk. Used with permission of Faksimile Verlag Luzern.*

the context of book production in the history of art and help illustrate changes in iconography, as well as influences and style in painting, sculpture, and other art forms.

#### MANUSCRIPTS USEFUL FOR CLASS STUDY AND RESEARCH

Dr. Honey Meconi, Director of Medieval Studies and Associate Professor at the Shepherd School of Music, uses illuminated manuscripts from the library's collection for both class instruction and her own research. In the fall of 2000 Dr. Meconi brought two classes to the library to research medieval music, including the music of Hildegard of Bingen. One assignment asked students to transcribe the original notation from a manuscript and com-

pare it with published editions. This exercise uncovered inaccuracies in the modern editions and illustrated the difficulties of preparing modern editions from original sources. The limitations performers faced in reading early scores were also made clear. Due to the scarcity and value of parchment, most of the available space was used, resulting in compaction of measures and words and the mixture of individual pieces of music on the same page or line.

For her own research, Dr. Meconi utilizes these manuscripts in a variety of formats. Microforms are used mostly for the study of texts, as they cannot reproduce the colors and intricate artwork of the originals. Digitized formats are also useful for textual translations, as pages that may bleed through can be cleaned up in the digitized format. While Dr. Meconi indicated that the content is the most important concern with illuminated manuscripts, the form of the books is also important:

"Parts of books include the binding, the script, the margins, edges, the paper type, and other items; a 'physical book' can be a work of art." Rice's continued efforts to purchase these types of facsimiles are important, because they allow scholars to accomplish much background research before looking at the original. Every time researchers consult an original manuscript they contribute to its destruction. Performing significant background research with facsimiles helps preserve these exceptional treasures.

#### WOODSON RESEARCH CENTER EXAMPLES

The Woodson Research Center also houses important facsimile collections of illuminated and early manuscripts. One noteworthy set is *Early English Manuscripts in Facsimile* (WRC Z115E .E3—currently in twenty-seven volumes), to which volumes are added periodically. In addition to facsimiles,



*Art and Architecture Librarian Jet Prendeville shows off the Buchaltärchen.*

Woodson also houses several original leaves from illuminated manuscripts. Some of these leaves are collected in a book entitled *Original Leaves from Famous Books; Eight Centuries, 1240 A.D.-1923 A.D.* (WRC Z239 .A3 O7). Besides leaves from illuminated manuscripts, this collection also includes leaves from incunabula and other famous early works. One of the most impressive single leaves housed in Woodson is believed to be from a fifteenth-century Italian missal, donated by Stanley Slotkin in the 1950s.

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## BEHIND THE SCENES: ELECTRONIC TEXT CENTER

The Electronic Text Center was founded in 1995 to help Rice University faculty, students, and staff in projects to create and use electronic text and images. It also houses electronic text collections and provides facilities where people can use them.

The Electronic Text Center's staff offers expertise in designing and maintaining Web pages, converting print and images into digital formats, creating and working with graphics, identifying electronic resources for teaching and research, and searching and analyzing electronic texts. They provide training sessions on a variety of electronic resources, consultation on digital projects, and access to the necessary tools for working with digital resources.

### EQUIPMENT AND COLLECTIONS

The center furnishes computers, scanners, a CD-writer, and other hardware, as well as software for image manipulation, optical character recognition, Web page authoring, and graphic design. In addition, the center has a reference collection of books and other resources on programming, markup languages, Web design, and graphics creation, as well as a number of online guides to creating and using digital resources.

The Electronic Text Center maintains a large number of digital texts and images, chiefly on CD-ROM. Electronic resources offer many advantages to enhance the research process, such as a dynamic format, complex search capabilities, and the ability to copy electronic text directly into a word processing or note-taking application. The digital medium gives wider access to rare books and manuscripts which have been converted to digital format. Electronic tools can also analyze and collate texts or compile concordances and indexes.

The center houses an electronic text collection of approximately 150 CD-ROMs, chiefly in the humanities. Highlights include: *Editions and Adaptations of Shakespeare, afternoon, a story*, an acclaimed interactive hypertext by Michael Joyce; *Arts and Culture of Africa*; the *Interactive Atlas of Human Anatomy*; and Frank Lloyd Wright's *Presentations and Conceptual*



*Sophomore Jerry Vera gets advice from Electronic Text Center Director Lisa Spiro.*

*Drawings.* These CD-ROMs are available for use in the center and may be checked out by faculty and graduate students for a period of one week.

### PROJECTS UNDERWAY

The Electronic Text Center lends its staff and resources to support a wide variety of digital projects. Current projects include:

#### Galileo Project

(<http://es.rice.edu/ES/humsoc/Galileo>)

The center is working with Dr. Albert Van Helden of the History Department to redesign and enhance the Galileo Project, which focuses on the famous Renaissance scientist. This is one of the earliest and most important humanities-focused Web sites.

#### Thresher Project

Working in collaboration with the Rice Thresher, the Electronic Text Center and other Fondren Library staff members are working on a

pilot project to digitize eight years of back issues of the Rice student newspaper from the 1960s. This will serve as a digital archive, not only preserving a piece of Rice history but also increasing accessibility to these issues for researchers.

### Bonpo Textual Collection

(<http://antioch.rice.edu/digproj/bonpo>)

Electronic Text Center staff have been working with Dr. Anne C. Klein and Gregory Hillis of the Department of Religious Studies on the Bonpo Textual Collection, a collaborative electronic project. This project is aimed at the reproduction, analysis, interpretation, and translation of Tibetan literature. Based at the Electronic Text Center, it is being developed in collaboration with the Institute for Advanced Technology in the Humanities at the University of Virginia. This is one of many collections being developed in the Tibetan Language and Literature Archive component of the Tibetan and Himalayan Digital Library.

### Jingban tianwen quantu

(<http://www.rice.edu/Fondren/ETC/jingban/>)

This is a collaborative project with Dr. Richard J. Smith, Professor of History and Director of Asian Studies, and with the GIS/Data Center in the library. Its purpose is to make available an interactive online version of an eighteenth-century Chinese map. The original is 44 by 27 inches and is currently housed in the Woodson Research Center.

### STAFF, LOCATION, AND HOURS

The Director of the Electronic Text and Image Center is Lisa Spiro; she can be contacted by phone (713-348-2594) or e-mail ([lspiro@rice.edu](mailto:lspiro@rice.edu)). The center is located in room 145 of Fondren Library. (Upon entering the rotunda of the library, go right toward the Reference Desk; room 145 is located on your right as you approach the desk.) Hours vary according to the academic calendar and staffing availability, but in general the center is open 9:00 A.M. - 6:00 P.M. Monday-Friday.

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## Did you Know?

- Fondren Library increased expenditures for online information resources by 33% last year. Expenditures for online full-text journals increased almost 84% during this time.

Fondren Library spent \$737,000, or 11% of the total collections budget, to provide access to information in electronic formats in FY2000.



- Fondren Library borrowed 21% more materials from other libraries on behalf of Rice faculty, students, and staff last year than during the previous year. At the same time, we lent 16% more material to other libraries for use by non-Rice faculty and students.

Improvements in document delivery technologies (including easier facilities for requesting photocopies from within online journal indexes) and improved courier/mail services appear to be making interlibrary loan more palatable.



- Once again Fondren Library was chosen as the site of the "Digitization for Cultural Heritage Professionals Course," scheduled for early March 2001, with sponsorship by Rice University and the University of Glasgow. This second offering of the course in North America was registered at capacity, with participants from libraries, archives, and museums in the U.S. and abroad. Included in the week-long course are theoretical and practical instruction on planning and management of projects for digitizing and disseminating the unique intellectual content of participants' home institutions.

become the basis for study, debate, and the further advancement of knowledge. The public domain functions as an “intellectual commons” from which innovators can draw in developing their own work. Recently, the Sonny Bono Copyright Term Extension Act extended copyright protection for works published after 1978 from fifty years after the death of the author to seventy years or, in the case of works for hire, ninety-five years.

Another key principle that balances the exclusive rights of copyright holders is “first sale,” which enables the person or institution that has purchased a copyrighted work to lend, sell, or otherwise dispose of it. “First sale” forms the basis of a library’s ability to distribute copyrighted materials.

#### CURRENT ISSUES

“This disappointing decision has moved our Nation one step closer to a ‘pay-per-use’ society that threatens to advance the narrow interests of copyright owners over the broader public interest of information consumers.”<sup>4</sup> When the Librarian of Congress ruled recently that users must not sidestep electronic security measures—even if they are attempting to exercise their rights to fair use—Representative Rick Boucher registered his protest, along with the American Library Association, the Association of American Universities, the American Council on Education, and other advocacy groups. There is concern that this ruling will overturn traditionally lawful uses of copyrighted materials for research and teaching, upset the careful balance that forms the basis of copyright law, and violate the

principle of “first sale.”

The ruling grows out of the 1998 Digital Millennium Copyright Act (DMCA), which forbids the circumvention of access-control technologies and limits the liability of Internet Service Providers. Through access-control technologies, publishers can limit how often material can be accessed, how many users can access the information, and to what extent it can be shared. Already the anti-circumvention provisions of the DMCA have threatened research ongoing at Rice and other institutions. As the *Chronicle of Higher Education* reported in January, a team of computer scientists from Rice, Princeton, and the Xerox Palo Alto Research Center have delayed publishing their research on access-control technologies out of fear that the DMCA forbids the dissemination of such knowledge. Ironically, this research would likely improve security technologies.<sup>5</sup>

In a more general sense, excessive copyright restrictions might make it so difficult to retrieve scholarly information that research is undermined. Some scholars have complained that they have been prevented from including photographs of art work in articles because they could not get permission or because the cost was too high; others have been hesitant to incorporate multimedia into teaching and research or develop course packets because negotiating copyright seems too confusing and time-consuming.

Also of concern is the trend toward copyright holders licensing rather than selling resources. Such licenses can levy a fee or royalty with each use and override uses that typically would be considered “fair,” obviating the very advan-

tages of having the material in an electronic form. In using an online article, for instance, a scholar may want to conduct a search of the material, print out a copy, or download the file so that she can organize the information using bibliographic software such as EndNote, compile a concordance, or simply paste quotations into her own essay. She may also wish to pass on a copy of the material to her students or to a colleague to promote further discussion. Under some licenses, such uses might be forbidden.

One area where copyright law has important effects is in the creation and use of multimedia for teaching. Multimedia materials help to enliven students’ understanding of Shakespeare, Bach, Picasso, crystallography, and a range of other subjects. By digitizing such resources, universities can realize a number of advantages: students and scholars can examine them at any time and at any location where they have access to the campus network; they can quickly move to the appropriate section of a movie or recording, enjoying an important flexibility; and they can make use of illuminating analytical tools.

Yet digitizing audio and video raises significant legal questions. Current law permits instructors to display or perform any lawfully acquired copyrighted materials in a classroom for the purposes of face-to-face teaching, but it limits remote performance or display to “classrooms or similar places normally devoted to instruction.” In recent testimony before the Web-Based Education Commission, the Register of Copyrights for the Library of Congress proposed an amendment that would revise the Copyright Act so that copies of a

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<sup>4</sup> Rick Boucher, “‘Pay-Per-Use’ Society one Step Closer,” October 26, 2000. <<http://www.house.gov/boucher/docs/payperuse.htm>>

<sup>5</sup> Florence Olsen, “Legal Concerns Delay Publication of Research on ‘Digital Watermarks,’” *Chronicle of Higher Education*, January 15, 2001. <<http://chronicle.com/free/2001/01/200101150lt.htm>>



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display or performance could be distributed to students outside of the traditional classroom setting, provided that they are enrolled in a nonprofit educational institution, that the materials are used as part of “mediated instruction,” and that access is limited to enrolled students and resides on the server only for the duration of the course.<sup>6</sup> No laws have yet been passed to carry out these recommendations.

Fears of a “pay-per-use society” are also raised by UCITA, a proposed state law that seeks to create a uniform national commercial code governing electronic information. UCITA legalizes click-through and shrink-wrap licenses so that a user must agree to the contract’s terms before even seeing the product. Some of the terms that UCITA sanctions seem to impinge upon fair use and consumer rights, even free expression; for instance, the law would enable manufacturers to avoid liability for any defects with the product, prohibit criticism of the software, and employ licenses that override fair use. So far, only Maryland and Virginia have passed UCITA, but it is likely to be considered by the Texas Legislature this year.<sup>7</sup>

## STEPS THAT ACADEMICS CAN TAKE

### *Stay informed*

Although it may seem difficult to keep track of all of the intellectual-property-related acronyms and even more difficult to understand current developments in copyright law, it is important for universities to remain aware, both to promote their own agenda and to avoid in-

fringement. To stimulate a campuswide conversation about these issues, Shisha van Horn of Classroom Technology Services founded a group called Copyrice that is developing an educational Web site focused on copyright. On April 25 Fondren Library will cohost the NINCH (National Initiative for a Networked Cultural Heritage) Copyright Town Meeting, which will bring leading experts to the campus to discuss what current developments in copyright mean for the university.

### *When appropriate, seek permission*

The Milton S. Eisenhower Library at Johns Hopkins University warns: “Do not assume that, because you are part of a university, all use you make of information falls under *fair use* or *educational exemptions*. This is not the case.”<sup>8</sup> If you are not sure whether something falls under fair use, consider how important the material is to your project, what your time frame is, and what your likelihood is of getting sued. In the spirit of “better safe than sorry,” it may be wise to request permission from the copyright holder to use the materials. If you intend to distribute copyrighted material for commercial purposes, or if you are making the material available to a wide audience over the Web, then you should ask for permission from the copyright holder. Penalties for copyright violations include having the materials destroyed and/or paying statutory damages ranging from \$200 for innocent infringement to \$100,000 for willful infringement. The fine for circumvention of copyright protection systems goes up to \$1 million.

There have been some instances in which copyright owners have demanded exorbitant fees for permissions. (An elementary school teacher was asked to pay \$5,000 for using a song in an educational multimedia presentation.<sup>9</sup>) In general, though, publishers give permissions to nonprofit educational institutions at reasonable costs. Whom you contact depends on the format of the material; for instance, the Copyright Clearance Center covers journal articles and other texts, while BMI (Broadcast Music, Inc.) focuses on music. Fondren Library will request permissions before placing materials on electronic reserve, and Kinko’s and other companies that photocopy course packets typically will take care of the necessary copyright paperwork.

### *Promote a balanced approach to copyright*

In response to current concern over copyright, groups such as NINCH have developed principles that promote scholarly communication and protect the interests of copyright holders. These principles recognize the importance of maintaining a balance between the interests of creators and of the public, constructing a viable economic framework for the creation and dissemination of ideas, developing a system that focuses on facilitating compliance rather than punishing violations, and upholding the public domain.<sup>10</sup> In a broader sense, library and higher education groups argue that the same principles of fair use that apply for analog formats should carry over to digital resources; the law should be “technology-neutral.”

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<sup>6</sup> Statement of the Register of Copyrights before the Web-Based Education Commission, United States Senate, July 20, 2000. <<http://lcweb.loc.gov/copyright/docs/regstat72000.html>>

<sup>7</sup> American Library Association, Washington Office, “UCITA: Concerns for Libraries and the Public,” December 29, 2000. <<http://www.ala.org/washoff/ucita/index.html>>

<sup>8</sup> Milton S. Eisenhower Library, Johns Hopkins University, “Information on Copyright and Intellectual Property,” June 30, 2000. <<http://milton.mse.jhu.edu/copyright/index.html>>

Some groups, such as the Copyright Policy Task Force of the Triangle Research Libraries Network, contend that publishers' control of intellectual property originally developed by scholars drives up the cost of scholarly information, and they urge that scholarly articles and books be brought "back under the control of the producers (the research scholars and their universities).<sup>11</sup>

## CONCLUSION

The university community must pay attention to copyright, not only because it's the law, but also because it underlies the university's central mission. But universities should be vigilant in preventing the balance from swinging too much in favor of commercial interests. As the digital environment evolves, new laws will be passed and new approaches proposed. Thus, it is vital that universities insist upon maintaining a core set of values.

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## SUGGESTED READING/

### RESOURCES

Andorka, Frank H. *What Is a Copyright?* Chicago: American Bar Association, 1992.

Bruwelheide, Janis H. *The Copyright Primer for Librarians and Educators*. 2<sup>nd</sup> ed. Chicago: American Library Association; Washington, DC: Na-

tional Education Association, 1995. (Z649 .F35 B78 1995 - Fondren Library)

Copyright Clearance Center. <<http://www.copyright.com>>

Copyright Management Center (Indiana University—Purdue University, Indianapolis) <<http://www.iupui.edu/~copyinfo/home/html>>

Harper, Georgia, "A Crash Course in Copyright." University of Texas General Counsel's Office, 2000. <<http://www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm>>

Library of Congress. Copyright Office. <<http://www.loc.gov/copyright/>>

Milton S. Eisenhower Library, Johns Hopkins University, "Information on Copyright and Intellectual Property," June 30, 2000. <<http://milton.mse.jhu.edu/copyright/index.html>>

Talab, R. S. *Commonsense Copyright: A Guide for Educators and Librarians*. 2<sup>nd</sup> ed. Jefferson, NC: McFarland, 1999.

## COPYRIGHT ACTIVITIES AT RICE

- **The NINCH Copyright Town Meeting**, cosponsored by Fondren Library, NINCH (National Initiative for a Networked Cultural Heritage), the Texas A&M University Library, and the University of Houston Library, will be held from 9:00 A.M. –4:30 P.M. on April 25, at a place to be announced. At Copyright Town Meetings, leading experts on intellectual property discuss the foundations of copyright, examine current trends, and analyze what is at stake for the educational and cultural heritage communities. Past Town Meetings have focused on the public domain, fair use, access to scholarly information, university policies governing intellectual property developed by faculty and staff, and much more. The Town Meeting provides a wonderful opportunity to hear some knowledgeable and engaging speakers, to become more aware of copyright issues, and to take part in lively discussions. This event is free and open to the public. Prior to the meeting, more information will be available at: <http://www.rice.edu/Fondren/CopyrightTM>.
- **Copyrice** was founded when staff involved in digital projects realized how difficult it is to determine what is and is not permitted under current copyright law. Rather than creating policy, this group sets out to educate the Rice community about copyright, particularly through a Web site (under development) which will summarize copyright law, offer guidance on determining fair use and seeking permissions, and point out places where people can find more information. The Web site will be located at: <http://www.rice.edu/copyright>.

<sup>9</sup> R. S. Talab, *Commonsense Copyright: A Guide for Educators and Librarians*, 2<sup>nd</sup> ed. (Jefferson, NC: McFarland, 1999), xi.

<sup>10</sup> See, for example, National Humanities Alliance, "Basic Principles for Managing Intellectual Property in the Digital Environment," March 24, 1997. <[http://www.ninch.org/ISSUES/COPYRIGHT/PRINCIPLES/NHA\\_Complete.html](http://www.ninch.org/ISSUES/COPYRIGHT/PRINCIPLES/NHA_Complete.html)>

<sup>11</sup> Copyright Policy Task Force, Triangle Research Libraries Network, "TRLN Model University Policy Regarding Faculty Publication in Scientific and Technical Scholarly Journals," 1993. <<http://www.lib.ncsu.edu/scc/trln.html>>

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## COLLECTION DEVELOPMENT SPECIALISTS



Mary J. Du Mont

### MARY J. DU MONT

Mary Du Mont arrived at Fondren Library on January 8 of this year as our new Music Librarian. Mary came to Rice from the Kent State University Libraries, where she was an Assistant Professor for Libraries and Media Services and the Head of the Music Library. Mary was a reference librarian at Kent State from 1990 until she assumed responsibility for the music library in 1994.

An experienced singer, Mary received a Bachelor of Music in vocal performance from Northwestern University in 1986. Mary continued her academic studies at Kent State University, where she received a Master of Library Science degree in 1990. She has completed her course work and is currently working on her thesis for a Master of Arts in Musicology from Kent State. Her main area of study is Mozart and late nineteenth-century vocal music. Greenwood Press recently published her book, entitled *The Mozart-Da Ponte Operas: An Annotated Bibliography*. The book focuses on three Mozart operas: the *Marriage of Figaro*, *Don Giovanni*, and

### *Così fan tutte.*

From 1994 to 1999 Mary performed with the Cleveland Singers, a choral group founded by Robert Page. Also to her credit are appearances at Kent State University and as an alto soloist with various ensembles and choral groups. Mary's performance career was interrupted for a time while she concentrated on the tenure process at Kent State and on becoming a parent, but she hopes to resume performing in the future.

As an active member of the Music Library Association, Mary is working on a "Quality of Reference Service" project. Project participants survey users and staff at various music libraries to determine whether library users received what they wanted. Mary will be looking at the outcome of this project and considering how it might be applied here at Fondren. She and colleagues are working on an article about the project.

Mary is looking forward to new challenges in her position at Fondren Library and to building solid relationships within the Shepherd School of Music. Her first goal will be to expand the music research collections. She also looks forward to moving into the electronic text area and will be considering possible resources for digitization.

Outside of work, Mary enjoys gardening, with a special love for growing roses; she is looking forward to mastering the challenges of gardening in Houston. She and her husband, Bill, like bicycling and being outdoors and will be happily exploring Texas's state parks. Mary's other interests include cooking and classic children's literature, which she anticipates sharing with her son, two-year-old Michael. Three household cats put Mary firmly on the feline side of Fondren's pet-loving contingent.

### LISA SPIRO

Lisa Spiro accepted a position at Fondren Library in February 2000 as Digital Media Specialist. In June her role in the library was expanded when she became Director of the Electronic Text Center. Lisa manages a computing lab for electronic projects and oversees various digital projects, includ-





Lisa Spiro

ing the electronic publication of the *Sarmatian Review*, the development of the Bonpo Textual Collection, the enhancement of the Galileo Project, and Fondren's involvement in the Texas Archival Resources Online (TARO) Project for the publication of finding aids using EAD (Encoded Archival Description).

This semester Lisa has been part of a team organizing the second Digitization for Cultural Resources School to be presented at Rice. Lisa and colleagues from Fondren and the University of Glasgow are the instructors for twenty-five students who have enrolled to learn about the theoretical principles and practical skills involved in creating high-quality digital resources.

Although relatively new to the Fondren staff, Lisa is by no means a newcomer to the Rice community. Her father is a researcher in Space Physics, and Lisa has fond childhood memories of attending games at Rice and playing in her father's office during school breaks. Lisa attended Rice as an undergraduate, a tradition currently being carried on by her brother, John. She enjoyed life as a Rice student and is particularly appreciative of the close contact between faculty and students. As a Rice alumni inter-

viewer, Lisa shares her experience and appreciation with high school students interested in attending Rice. She is also involved with the student community as a Hanszen Associate.

After graduating from Rice in 1992 with a B.A. in English and History, Lisa headed for the University of Virginia, where she earned an M.A. in English in 1994. She is currently working on a Ph.D. in English, which she expects to receive from the University of Virginia in 2002. For five years Lisa taught undergraduate courses in literature, writing, and public speaking at University of Virginia. She was also the managing editor of *Postmodern Culture*, one of the first peer-reviewed humanities journals to be published on the Internet. Before accepting a position at Fondren, Lisa was employed at the University of Virginia's Electronic Text Center as the Early American Fiction Project Coordinator.

As undergraduate students at Rice, Lisa and her husband, Richard, worked at KTRU. Since returning to Houston last year, they have also returned to KTRU as DJs on a show called "The Americana Show." The Americana Show seeks to use music as a lens to understand American culture and can be heard from 9:00-10:00 P.M. on Monday evenings.

When not working at Fondren or KTRU, Lisa continues efforts on her dissertation, entitled "Bachelors of Arts: Bachelorhood as a Cultural Identity in Nineteenth-Century America." She participates in a book group and, with her husband, enjoys adding new CDs to their music collection. Lisa and Richard also share their life with Buster the Wonderdog and enjoy spending time with family and friends.

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#### CORRECTION

*In the article "ILL Prepares for Electronic Document Delivery," published in the fall 2000 issue of News from Fondren, Ohio University Medical Library was incorrectly cited as the creator of Prospero. Prospero was actually created by Ohio State University Medical Library.*

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## NEWS from Fondren

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## RICE: THE NEXT CENTURY CAMPAIGN

Elder Interests, Ltd., recently made a very generous gift to Fondren Library. James III, David, and Ramsay Elder, along with their parents, James H. Elder, Jr., and Dee Speed Elder, have named the Elder Periodical Room in the new building. As most of you know, there is already an Elder Periodical Room in the library, which is a result of this family's generosity in 1986. David and Ramsay Elder and their father are Rice alumni. David has served on the Friends of Fondren Library Board of Directors since 1989.

At the Friends of Fondren Homecoming Brunch on November 4, 2000, Friends' President Lucas Elliot announced the generous gift of Governor Edward W. Kelley, Jr., and his wife, Janet Kelley, which will name two separate spaces in the new building. The area for government documents will be named The Honorable Edward W. and Janet H. Kelley, Jr., Government Publications Center. The Friends of Fondren Library suite will be named for Governor Kelley's mother, Allie May Autry Kelley (known as Sally), and his late wife, Ellen Kelley, who each served as president of the Friends of Fondren Library. Governor Kelley is a Rice alumnus, who has served since 1990 as a member of the Board of Governors of the Federal Reserve System.

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